

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE BRICKLAYERS AND ALLIED  
CRAFTWORKERS, LOCAL 5 NEW YORK  
RETIREMENT, WELFARE, LABOR MANAGEMENT  
COALITION and APPRENTICE TRAINING AND  
JOURNEYMEN UPGRADING FUNDS, and  
BRICKLAYERS AND ALLIED CRAFTWORKERS  
LOCAL 5 NEW YORK,

Case No. 08-CIV-5555

**ANSWER**

Plaintiffs,

v.

PALERMO-TOO CONSTRUCTION, INC.,  
SALVATORE GUASTELLA, Individually, and  
MAGGIE GUASTELLA, Individually,

Defendants.  
-----X

Defendants, Palermo-Too Construction, Inc., Salvatore Guastella and Margarita Guastella (denominated in the Complaint as "Maggie Guastella"), as and for their Answer to the Complaint, by their attorneys, McCARTHY FINGAR LLP, allege upon information and belief as follows:

1. Deny the allegations set forth in paragraphs "1," "15," "16," "21," "23," "27," "28," "29," "30," "31," "32," "33," "34," "37," "39," "41," "42," "43," "44," "45," "49," "50," "52," "53" and "54" of the Complaint.

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "2," "3," "4," "5," "6," "7," "8," and "9" of the Complaint.

3. Paragraphs "11" and "14" of the Complaint improperly call for legal conclusions and statutory interpretations for which no responses are required.

4. Admit that defendant, Palermo-Too Construction, Inc., is a corporation organized under the laws of New York, as alleged in paragraph "10" of the Complaint, and deny the remaining allegations in said paragraph.

5. As to paragraphs "12" and "13" of the Complaint, admit that defendant, Salvatore Guastella, is an officer and shareholder of defendant, Palermo-Too Construction, Inc.

6. Deny the allegations in paragraphs "19" and "20" of the Complaint, and affirmatively allege that a portion of the contributions which plaintiff alleges are due and owing, were paid to and received by plaintiff (to wit, John Guastella and Arzon Hoxhallari), and other portions thereof include contribution requests for individuals who were not even on the weekly payroll reports provided to plaintiff, including individuals identified in plaintiff's delinquency reports as George Bennett and Alfred Martirano, Jr.,

7. As to paragraphs "18," "25," "26," "36," "47" and "48" of the Complaint, refer to the Court to the agreement referenced therein for its true intent and meaning and interpretation under New York law.

8. As to paragraphs "17," "22," "24," "35," "38," "40," "46" and "51" of the Complaint, defendants repeat and reallege their answer to each and every paragraph referenced therein in a manner consistent with the responses to the incorporated and realleged allegations.

**WHEREFORE**, defendants, Palermo-Too Construction, Inc., Salvatore Guastella and Margarita Guastella (denominated in the Complaint as "Maggie Guastella"), demand judgment as follows:

- (a). The Complaint be dismissed with prejudice, together with costs, disbursements and attorney's fees in defendants' favor; and
- (b). Together with such other and further relief as the Court may deem just and proper.

Dated: White Plains, New York  
August 11, 2008

McCARTHY FINGAR LLP

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